

Regular Session, 2009

SENATE BILL NO. 90

BY SENATORS GRAY EVANS AND LAFLEUR

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

EDUCATION DEPARTMENT. Establishes and provides for the Louisiana Statewide Education Facilities Authority. (8/15/09)

AN ACT

To enact Part XII of Chapter 1 of Title 17 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 17:409.1 through 409.7, and to enact R.S. 36:651(BB), relative to school facilities; to create and provide for the Louisiana Statewide Education Facilities Authority in the Department of Education; to provide for a board of commissioners and an advisory council and for their membership, powers, duties, and functions; to provide for rules; to provide relative to program participation; to provide relative to ownership and control of public school facilities funded through the authority; to provide relative to implementation and funding; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Part XII of Chapter 1 of Title 17 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 17:409.1 through 409.7, is hereby enacted to read as follows:

PART XII. LOUISIANA STATEWIDE

EDUCATION FACILITIES AUTHORITY

§409.1. Louisiana Statewide Education Facilities Authority

This Part may be referred to as the "Louisiana Statewide Education

Facilities Authority Act."

§409.2. Legislative findings

The legislature hereby finds and declares the following:

(1) To provide an education for the children of Louisiana, the facilities in which those children learn should meet a standard of excellence.

(2) The physical facilities in which students learn have a major impact on student achievement and success.

(3) School building quality affects the quality of teaching.

(4) Louisiana is ranked as one of the four lowest states in terms of per pupil spending on school facilities.

(5) School building quality impacts the perception of a school's academic quality.

(6) Improving school building quality in Louisiana should be a top priority.

(7) By understanding the current situation regarding school facilities, the legislature and education officials are better equipped to determine the next steps.

§409.3. Louisiana Statewide Education Facilities Authority; creation; board of commissioners; meetings; quorum; compensation; employees

A. There is hereby created the Louisiana Statewide Education Facilities Authority within the Department of Education. The purpose of the authority is to provide funding, coordination, assistance, and oversight for the repair, renovation, and construction of public school facilities.

B. The domicile of the authority shall be East Baton Rouge Parish.

C.(1) The authority shall be governed by a board of commissioners comprised of seven members as follows:

(a) Three members shall be appointed by the governor, subject to confirmation by the Senate, who shall have a background in construction, architecture, or finance.

1 **(b) Two members shall be appointed by the State Board of Elementary**
2 **and Secondary Education, subject to confirmation by the Senate, who shall have**
3 **a background in construction, architecture, or finance.**

4 **(c) The state superintendent of education or his designee.**

5 **(d) One member shall be appointed by the Louisiana School Boards**
6 **Association, subject to confirmation by the Senate.**

7 **(2) Members shall be appointed to the board no later than October 1,**
8 **2009.**

9 **D. A vacancy occurring on the board for any reason shall be filled in the**
10 **same manner as the original appointment.**

11 **E. Four members of the board shall constitute a quorum necessary for**
12 **the transaction of official business. All official actions of the board shall require**
13 **an affirmative vote of a majority of the commissioners present and voting at any**
14 **meeting.**

15 **F. Members of the board shall serve without compensation, but may be**
16 **reimbursed for necessary and actual expenses incurred while fulfilling their**
17 **official duties as a member of the board.**

18 **G. The board shall employ a qualified executive director who shall have**
19 **a background in construction, architecture, or finance to administer the**
20 **functions, responsibilities, and policies of the authority.**

21 **H. The executive director shall be responsible for managing and**
22 **administering the daily functions of the authority and for performing all other**
23 **functions necessary to the effective operation of the authority. The executive**
24 **director shall employ necessary staff to carry out the duties and functions of the**
25 **authority. Such staff may include a financial director, a chief of architectural**
26 **services, a liaison for local school systems, and any other necessary support**
27 **staff.**

28 **I. The board shall meet and organize within a reasonable amount of**
29 **time following appointment and adopt rules and regulations that are necessary**

1 to carry out its functions as a board, including, but not limited to, determining
2 any further qualifications for the executive director, hiring an executive
3 director, and creating a future meeting schedule.

4 §409.4. Powers; duties; functions

5 A. The authority shall:

6 (1) Conduct a statewide assessment of public school facilities to assess
7 and evaluate the quality and condition of existing public school facilities and
8 compile a school-by-school inventory of facility deficiencies and needs.

9 (2) Collaborate with city, parish, and other local public school boards
10 to determine how best to meet their specific needs with regard to school
11 facilities.

12 (3) Review applications from city, parish, and other local public school
13 boards for funding for school facility repairs, renovations, and construction.

14 (4) Consult with the Education Facilities Authority Advisory Council on
15 all funding and policy decisions made by the board.

16 (5) Develop a formula mechanism through which to assess and prioritize
17 applications for funding for local projects submitted by city, parish, and other
18 local public school boards based on best practices. Such formula and
19 mechanism shall be submitted to the Joint Legislative Committee on the Budget
20 for approval and shall, at a minimum, include the following:

21 (a) Consideration for student health and safety, projected demographic
22 changes, adequate space needed to accommodate projected student enrollment,
23 and the ability of the local school system to finance school repairs, renovations,
24 and construction projects.

25 (b) Ensure that funds are allocated to city, parish, and other local public
26 school systems proportionally throughout the state based upon the regions
27 established by the State Board of Elementary and Secondary Education for the
28 Regional Education Services Centers.

29 (c) Develop a means for determining the amount of local funds that must

1 be contributed by a city, parish, or other local public school system for each
2 project funded by the authority which emphasizes the ability of the school
3 system to fund projects locally. The authority may not fund any project at one
4 hundred percent of the cost of the project, except as provided in Paragraph
5 (B)(5) of this Section.

6 (6) Adopt and promulgate such rules and regulations as are necessary
7 to implement the provisions of this Part in accordance with the Administrative
8 Procedure Act.

9 (7) Report annually to the State Board of Elementary and Secondary
10 Education.

11 B. The Louisiana Statewide Education Facilities Authority may:

12 (1) Sue and be sued in the name of the authority, including the right to
13 recover all debts owed to the authority.

14 (2) Accept donations, bequests, equipment, supplies, materials, services,
15 or other forms of financial assistance for education or construction purposes
16 from any public or private person or agency and comply with rules and
17 regulations governing grants from the federal government or from any other
18 person or agency, which are not in contravention of state law.

19 (3) Appoint, contract with, or employ legal counsel, bond counsel,
20 accountants, construction and financial experts, architects, engineers,
21 underwriters, financial advisors, trustees, managers, consultants, and others as
22 may be necessary to carry out the functions of the authority, and to fix the
23 compensation of such individuals.

24 (4)(a) Provide funds on an emergency basis to repair school facilities
25 damaged by fire, flood, wind, storm, earthquake, hurricane, or any other
26 natural occurrence.

27 (b) Notwithstanding the provisions of Subparagraph (A)(5)(c) of this
28 Section, the authority may fund projects pursuant to this Paragraph at one
29 hundred percent of the cost of the project.

1 (5) Establish design specifications for school facility repair, renovation,
2 and construction projects approved for funding by the board including, but not
3 limited to, energy efficiency and construction materials.

4 (6) Perform such other acts as may be necessary or appropriate to
5 effectively carry out the objects and purposes of the authority.

6 §409.5. Education Facilities Advisory Council; creation; membership; duties;
7 functions

8 A. There is hereby created the Education Facilities Advisory Council
9 comprised of thirteen members as follows:

10 (1) The governor or his designee.

11 (2) The chairman of the Senate Committee on Education or his designee.

12 (3) The chairman of the House Committee on Education or his designee.

13 (4) The chairman of the Senate Committee on Finance or his designee.

14 (5) The chairman of the House Committee on Appropriations or his
15 designee.

16 (6) The executive director of the State Bond Commission or his designee.

17 (7) The legislative auditor or his designee.

18 (8) A representative from the Louisiana School Facility Manager's
19 Association appointed by the association.

20 (9) A representative from the Louisiana Association of School Business
21 Officials appointed by the association.

22 (10) A representative of the Louisiana Association of School
23 Superintendents appointed by the association.

24 (11) A representative of the Louisiana Federation of Teachers appointed
25 by the federation.

26 (12) A representative of the Louisiana Association of Educators
27 appointed by the association.

28 (13) A representative of the Associated Professional Educators of
29 Louisiana appointed by the association.

1 **B. The council shall provide advice and input to the Louisiana Statewide**
2 **Education Facilities Authority board of commissioners to inform policy and**
3 **funding decisions made by the board.**

4 **§409.6. Program participation; ownership and control of facilities**

5 **A. Participation by any city, parish, or other local public school board**
6 **in any program implemented by the Louisiana Statewide Education Facilities**
7 **Authority is voluntary.**

8 **B. Each city, parish, and other local public school board shall retain**
9 **ownership of and control over any school facility for which funding for repairs,**
10 **renovation, or construction was obtained through the authority.**

11 **C. The Louisiana Statewide Education Facilities Authority may serve**
12 **in an oversight capacity over a project undertaken by a city, parish, or other**
13 **local public school board to repair, renovate, or construct a school facility only**
14 **to the extent that the project is funded through the authority.**

15 **§409.7. Funding**

16 **In addition to funds provided by the legislature, the authority may seek**
17 **and accept gifts, grants, and donations, including federal funds, from any**
18 **available source. Implementation of the provisions of this Part that require the**
19 **expenditure of funds shall be subject to the availability of public or private**
20 **funds, or both, for such purposes.**

21 Section 2. R.S. 36:651(BB) is hereby enacted to read as follows:

22 §651. Transfer of boards, commissions, departments, and agencies to Department of
23 Education; boards, commissions, and agencies within Department of
24 Education

25 * * *

26 **BB. The Louisiana Statewide Education Facilities Authority (R.S.**
27 **17:409.1-409.7) is placed within the Department of Education and shall exercise**
28 **and perform its powers, duties, functions, and responsibilities in the manner**
29 **provided in R.S. 36:801.1.**

The original instrument was prepared by James Benton. The following digest, which does not constitute a part of the legislative instrument, was prepared by Jeanne Johnston.

DIGEST

Gray Evans (SB 90)

Proposed law creates the La. Statewide Education Facilities Authority within the Dept. of Education, domiciled in East Baton Rouge Parish. Provides that the purpose of the authority is to provide funding, coordination, assistance, and oversight for the repair, renovation, and construction of public school facilities.

Provides that the authority be governed by a board of commissioners comprised of seven members as follows:

1. Three members appointed by the governor, subject to Senate confirmation, with a background in construction, architecture, or finance.
2. Two members appointed by the State Board of Elementary and Secondary Education (BESE), subject to Senate confirmation, with a background in construction, architecture, or finance.
3. The state superintendent of education or his designee.
4. One member appointed by the La. School Boards Association, subject to Senate confirmation.

Requires that members be appointed no later than October 1, 2009 and that vacancies be filled in the manner of original appointment.

Provides that four members of the board constitute a quorum and that all official actions of the board require an affirmative vote of a majority of the members present and voting.

Provides that board members serve without compensation but may be reimbursed for necessary and actual expenses incurred in the course of their board duties.

Requires the board to employ a qualified executive director with a background in construction, architecture, or finance to administer the daily functions of the authority, including hiring staff.

Requires the authority to do the following:

- (1) Conduct a statewide assessment of public school facilities to assess and evaluate the quality and condition of existing public school facilities and compile a school-by-school inventory of facility deficiencies and needs.
- (2) Collaborate with local school boards to determine how best to meet their specific facilities needs.
- (3) Review applications from local school boards for funding for school facility repairs, renovations, and construction.
- (4) Consult with the Education Facilities Advisory Council on all funding and policy decisions.
- (5) Develop a formula and mechanism to assess and prioritize applications for funding local projects based upon best practices and submit such formula and mechanism to

- the Joint Legislative Committee on the Budget for approval. Provides that the formula take into consideration student health and safety, projected demographic changes, adequate space needed to accommodate projected student enrollment, and the ability of the local school system to finance school repairs, renovations, and construction projects. Requires the formula to ensure that funds are allocated to local school systems proportionally throughout the state based upon the regions established by the BESE for the Regional Education Service Centers. Further requires the formula to develop a means for determining the amount of local funds that a local school system must contribute to a project funded by the authority which emphasizes the ability of the school system to fund projects locally. Provides that the authority may not fund any project at 100% of the cost, except for emergency repairs necessitated by a natural disaster.
- (6) Adopt and promulgate necessary rules and regulations in accordance with the Administrative Procedure Act.
 - (7) Report annually to BESE.

Authorizes the authority to do the following:

- (1) Sue and be sued, including the right to recover all debts owing to the authority.
- (2) Accept donations, bequests, equipment, supplies, materials, services, or other forms of financial assistance for education or construction purposes from any public or private person or agency and comply with rules and regulations governing grants from the federal government or from any other person or agency, which are not in contravention of state law.
- (3) Appoint, contract with, or employ legal counsel, bond counsel, accountants, construction and financial experts, architects, engineers, underwriters, financial advisors, trustees, managers, and consultants, and others to carry out the functions of the authority and to fix the compensation for same.
- (4) Provide funds on an emergency basis to repair school facilities damaged by fire, flood, wind, storm, earthquake, hurricane or other natural occurrence. Additionally provides that such emergency repairs may be funded at 100% of project cost.
- (5) Establish design specifications for school facility repair, renovation, and construction projects approved for funding, including energy efficiency and construction materials.
- (6) Perform such other acts as are necessary or appropriate to effectively carry out the purposes of the authority.

Proposed law additionally creates and provides for the appointment of the 13-member Education Facilities Advisory Council to provide advice and input to the La. Statewide Education Facilities Authority board of commissioners to inform policy and funding decisions made by the board.

Provides that participation by a local school board in any program implemented by the authority is voluntary.

Provides that a local school board retains ownership and control over any school facility for which funding for repairs, renovation, or construction was obtained through the authority.

Authorizes the authority to serve in an oversight capacity over a project undertaken by a local school board to repair, renovate, or construct a school facility only to the extent that the project is funded through the authority.

Authorizes the authority to seek and accept gifts, grants, donations, including federal funds, from any available source. Provides that implementation of proposed law requiring the expenditure of funds is subject to the availability of public or private funds, or both, for such purposes.

Effective August 15, 2009.

(Adds R.S. 17:409.1 - 409.7 and R.S. 36:651(BB))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Education to the original bill.

1. Removes authority for the authority to transact official business after loss of a meeting quorum.
2. Removes the authority for the authority to issue bonds and other forms of indebtedness.
3. Makes technical changes.